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WELLS FARGO BANK, N.A.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LEONARD R. EVANS,

Plaintiff,

vs.

WELLS FARGO BANK, NATIONAL
ASSOCIATION and DOES 1 to 50,

Defendants.

) CASE NO. 3:13-cv-02371-JSC

)

) Hon. Jacqueline Scott Corley

)

) **AMENDED LOCAL RULE 16-2(D)**

)

) **MOTION TO CONTINUE CASE**

)

) **MANAGEMENT CONFERENCE TO**

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) **OCTOBER 24, 2013 AND RELATED**

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) **DEADLINES ACCORDINGLY¹**

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Defendant Wells Fargo Bank, N.A., (“Defendant”) now moves this Court under Local Rule 16-2(d) to continue the Case Management Conference currently set for August 29, 2013 by approximately 60 days to October 24, 2013. In support, Defendant states as follows:

¹ The version of this motion filed as Dkt. 22 contained an error in the title of the document that improperly referenced a continuance of the case management conference to October 3, 2013 instead of October 24, 2013. All other aspects of the motion filed on Dkt. 22 and the proposed order filed therewith referred to a continuance to October 24, 2014. Accordingly, counsel for Defendant now files this amended motion with apologies to the Court for the confusion and inconvenience.

On May 24, 2013, the Court entered an Order Setting Initial Case Management Conference and ADR Deadlines. Dkt. 4. The order set a Case Management Conference for August 29, 2013. *Id.* It further stated that a joint case management statement must be filed at least one week before the conference, here August 22, 2013, and that the parties were required to (1) meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan, (2) file ADR Certification signed by Parties and Counsel, and (3) file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference at least three weeks before the Case Management Conference, here August 8, 2013. *Id.*

Thereafter, on June 12, 2013, the parties engaged in an ADR phone conference. However, the parties were unable to substantively discuss ADR at that conference because Plaintiff did not appear to have standing to sue, settle, or otherwise act on behalf of his mother's estate.

Thereafter, at the hearing on Defendant's motion to dismiss Plaintiff's complaint that was held on August 1, 2013, the Court ruled that Defendant's motion to dismiss was granted, but Plaintiff had 45 days to file a first amended complaint. After that time, the parties were to participate in a further ADR Phone Conference. In the interim, Defendant's time to answer or otherwise respond to the first amended complaint would be tolled.

As a result of the Court August 1, 2013 ruling, there is no pending complaint in this action and one is not due to be filed until after the currently scheduled case management conference hearing date has already passed. Thus, Defendant respectfully requests that this Court continue the case management conference currently set for August 29, 2013 by approximately 60 days to October 24, 2013 at 1:30 p.m. Per the Court's May 24, 2013 Order (Dkt. 4), a continuance of the case management conference date would continue the related deadlines as well.

Finally, Defendant's counsel, Sally W. Mimms, hereby certifies that she left voicemail messages at the phone number provided on Plaintiff's complaint on two instances, namely on August 2, 2013 and August 5, 2013, in an attempt to seek Plaintiff's concurrence to moving the case management conference date to October 24, 2013, but Plaintiff has not returned those calls.

A proposed order granting Defendant's motion, and setting forth new case management dates, is filed concurrently herewith.

Dated: August 7, 2013

Respectfully submitted,

LOCKE LORD LLP

By: /s/ Sally W. Mimms
Regina J. McClendon
Sally W. Mimms
Attorneys for Defendant
WELLS FARGO BANK, N.A.

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CERTIFICATE OF SERVICE

I, Sally W. Mimms, an attorney, do hereby certify that on August 7, 2013, I electronically filed the foregoing with the Clerk of the Court using the electronic case filing system, which will send notification of such filings to the parties registered with the Court's CM/ECF system.

Additionally, on August 7, 2013, a true and correct copy of the foregoing was placed in an envelope that was deposited in the U.S. Mail at 44 Montgomery Street, San Francisco, CA 94104, with postage fully pre-paid, to:

Leonard R. Evans
967 Carpino Avenue
Pittsburg, CA 94565
Tel: (925) 639-0523
Fax: (510) 614-2930
In Pro Per

Dated: August 7, 2013

By: /s/ Sally W. Mimms
Sally W. Mimms

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